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| 10/622,706      | 07/21/2003  | Dalton H. Bruton     | 0113                | 4385             |

32366 7590 04/26/2004

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MONTGOMERY VILLAGE, MD 20886-1265

|          |
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| EXAMINER |
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GUTMAN, HILARY L

|          |              |
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| ART UNIT | PAPER NUMBER |
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3612

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/622,706

Applicant(s)

BRUTON, DALTON H. 

Examiner

Hilary Gutman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 is/are allowed.
- 6) ☒ Claim(s) 1,2,6-8,12-14 and 16 is/are rejected.
- 7) ☒ Claim(s) 3-5 and 9-11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/20/03.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following features must be shown or the feature(s) canceled from the claim(s).

the “cushion” covering the lip, the outer panel surface, and further at least a portion of the lower platform surface and at least a portion of the inner panel surface of claim 3;

the “cushion” being bonded to at least a portion of the frame of claim 4;

the insert being attached to the frame so as to secure at least an edge of the cushion of claim 5; and

the cushioned cover bonded to the upper platform surface of claim 15.

Additionally with regard to claim 3, even if the “cushion” recited were interpreted as a “cushion cover”, the recitation that the cushion cover covers “the upper platform surface” would still not be shown in the drawing figures.

No new matter should be entered.

2. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The use of the trademark LYCRA has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

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Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

4. The disclosure is objected to because of the following informalities:

On page 9, [0029], line 4, "NYLON" is not apparently a trademark and should not be capitalized.

On page 11, [0037], line 3, "EVA" should be accompanied by the terms which the acronym represents. Appropriate correction is required.

#### ***Claim Objections***

5. Claims 6 and 9 are objected to because of the following informalities:

In claim 6, line 4, "a" should be "the". In claim 9, line 3, "a" should be "the".

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 3-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claims 3-5 do not apparently claim the invention as disclosed in the specification and clearly shown in the drawings. The recitations of the “cushion” in claims 3-5 should apparently be “cushion cover” and will be interpreted in this manner for the purposes of examination.

For claims 4 and 15, the term “bonded” is recited. It should be noted that the patentability of a claim does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process (MPEP 2113). For the purposes of examination of these claims, the term “bonded” will be taken to mean “attached”.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-2, 14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by White, Jr.

White, Jr. (4,592,584) discloses an arm support 10 for a vehicle door 18, comprising: a frame, the frame comprising a platform 12, a lip 14, and a support panel 16; the platform having an outer platform edge, an inner platform edge, an upper platform surface, and a lower platform surface; the lip having an upper lip edge and a lower lip portion, the upper lip edge being contiguous with at least a portion of the outer platform edge and operable to transmit a mechanical load to the outer platform edge, the lower lip portion operable to be inserted between

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an inner surface of a vehicle door window and an inner channel edge of a vehicle door window channel; and the support panel having an upper panel edge, an inner panel surface, and an outer panel surface, the upper panel edge being contiguous with at least a portion of the inner platform edge an operable to transmit a mechanical load to the inner platform edge, and at least a portion of the inner panel surface operable to exert pressure against an interior panel of the vehicle door.

With regard to claim 2, a cushion cover 15 is disposed upon at least a portion of the upper platform surface.

With regard to claim 14, the support panel forms an angle between 95 and 105 degrees with the platform.

For claim 16, White, Jr. also discloses an arm support 10 for a vehicle door 18, comprising: arm support means 12; attachment means 14 for insertion between the inner surface of a vehicle door window and the inner edge of a vehicle door window channel, operable with the arm support means; and means 16 for holding the arm support means at a desired angle.

10. Claims 1-2, 6, 14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Harary et al.

Harary et al. (4,890,878) disclose an arm support for a vehicle door, comprising: a frame, the frame comprising a platform 24, a lip 16, and a support panel 28; the platform having an outer platform edge, an inner platform edge, an upper platform surface, and a lower platform surface; the lip having an upper lip edge and a lower lip portion, the upper lip edge being contiguous with at least a portion of the outer platform edge and operable to transmit a mechanical load to the outer platform edge, the lower lip portion operable to be inserted between

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an inner surface of a vehicle door window and an inner channel edge of a vehicle door window channel; and the support panel having an upper panel edge, an inner panel surface, and an outer panel surface, the upper panel edge being contiguous with at least a portion of the inner platform edge an operable to transmit a mechanical load to the inner platform edge, and at least a portion of the inner panel surface operable to exert pressure against an interior panel of the vehicle door.

With regard to claim 2, a cushion cover 26 is disposed upon at least a portion of the upper platform surface.

With regard to claim 6, a stand-off block 36 is attached to the inner panel surface to rest against the interior panel of the vehicle door, thereby positioning the inner panel surface away from the interior panel of the vehicle door and changing the horizontal orientation of the platform.

With regard to claim 14, the support panel forms an angle between 95 and 105 degrees with the platform.

For claim 16, Harary et al. also disclose an arm support for a vehicle door, comprising: arm support means 24; attachment means 16 for insertion between the inner surface of a vehicle door window and the inner edge of a vehicle door window channel, operable with the arm support means; and means 28 for holding the arm support means at a desired angle.

11. Claims 1, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Doane.

Doane (4,810,026) discloses an arm support for a vehicle door, comprising: a frame, the frame comprising a platform 60, a lip 52, and a support panel 68; the platform having an outer platform edge, an inner platform edge, an upper platform surface, and a lower platform surface;

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the lip having an upper lip edge and a lower lip portion, the upper lip edge being contiguous with at least a portion of the outer platform edge and operable to transmit a mechanical load to the outer platform edge, the lower lip portion operable to be inserted between an inner surface of a vehicle door window and an inner channel edge of a vehicle door window channel; and the support panel having an upper panel edge, an inner panel surface, and an outer panel surface, the upper panel edge being contiguous with at least a portion of the inner platform edge and operable to transmit a mechanical load to the inner platform edge, and at least a portion of the inner panel surface operable to exert pressure against an interior panel of the vehicle door.

With regard to claim 6, a stand-off block 80 is attached to the inner panel surface to rest against the interior panel of the vehicle door, thereby positioning the inner panel surface away from the interior panel of the vehicle door and changing the horizontal orientation of the platform.

With regard to claim 7, the stand-off block 80 has several layers that may be individually separated and removed to adjust the angle of the platform.

### ***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harary et al. as applied to claim 6 above.



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For claim 8, Harary et al. lack the specific dimensions of the stand-off block being between 70-83 mm long, 19-32 mm wide, and 13-19 mm thick.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have dimensioned the stand-off block of Harary et al. to be between 70-83 mm long, 19-32 mm wide, and 13-19 mm thick since various sized blocks would allow for the armrest to be provided on various sized doors and yet still provide for adequate spacing between an inner door side panel and the support panel.

It should be noted that if a claimed range and a prior art range do not overlap but are close enough that one skilled in the art would have expected them to have the same properties, then there would be a prima facie case of obviousness and the set value in the claimed range is not deemed critical or inventive (MPEP 2114.05). Furthermore, there is no evidence of criticality of the claimed range.

14. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over White, Jr. as applied to claim 1 above.

White, Jr. lacks the specific length dimensions of the lip being between 240-260 mm long.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the lip of White, Jr. between 240 and 260 mm long in order to adequately grip the window channel thereby supporting the armrest and an arm resting thereon.

In addition, it should be noted that although White, Jr. does not discreetly disclose the range of length for the lip being 240-260 mm as claimed, the lip and armrest disclosed provide

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support for an arm and exhibit the same properties as the armrest of the claimed invention.

Therefore, then there would be a prima facie case of obviousness and the set value in the claimed range is not deemed critical or inventive (MPEP 2114.05). There is no evidence of criticality of the claimed range.

Furthermore, these dimensions are complimentary to those of a conventional window channel and providing a lip so dimensioned would be necessary for insertion into different window channels of the well known prior art which may vary depending on the type of vehicle and size of the door.

15. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over White, Jr. as applied to claim 1 above.

White, Jr. lacks the specific width dimension of the lip being 22 mm and the specific thickness dimension of the lip being 3.7 mm.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the lip of White, Jr. to have a 22 mm width and a 3.7 mm thickness in order to adequately grip the window channel thereby supporting the armrest and an arm resting thereon.

In addition, it should be noted that although White, Jr. does not discreetly disclose the specific width and thickness as claimed, the lip and armrest disclosed provide support for an arm and therefore exhibit the same properties as the armrest of the claimed invention. Therefore, then there would be a prima facie case of obviousness and the set value in the claimed range is

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not deemed critical or inventive (MPEP 2114.05). Also, there is no evidence of criticality of the claimed range.

Furthermore, these dimensions are complimentary to those of a conventional window channel and providing a lip so dimensioned would be necessary for insertion into different window channels of the well known prior art which may vary depending on the type of vehicle and size of the door.

***Allowable Subject Matter***

16. Claim 15 is allowed.

17. The following is an examiner's statement of reasons for allowance: the primary reason for the allowance of claim 15 in this case is the inclusion of the specific cushioned cover and insert of independent claim 15 in combination with the other elements recited, which is not found in the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

18. Claims 3-5 and 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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19. The following is a statement of reasons for the indication of allowable subject matter: the primary reason for the indication of allowable subject matter for the claims in this case is the inclusion of the specific cushion that covers the lip, the upper platform surface, and the outer panel surface, as well as portions of the lower platform and inner panel surfaces of claim 3, in combination with the other elements recited which is not found in the prior art of record.

### *Conclusion*

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**22. Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231


**or faxed to:**

(703) 872-9326, (for formal communications intended for entry)

**or:**

(703) 746-3515, (for informal or draft communications, please clearly label

“PROPOSED” or “DRAFT”).

  
Hilary Gutman  
3612  
4/13/09